

Manatee Protection Plan Review Committee (MPPRC)

Minutes of August 24, 2009 Meeting

Committee Attendees: Brett Bibeau; Richard Bunnell; T. Spencer Crowley III; Judith Futerfas; David Gardner; Lynda Green; Alberto Lamadrid; Mark Lewis; Kate Mansfield, Ph.D.; Robert Moser; Manny Prieguez (Chair); Dick Townsend (Vice Chair)

County Staff Attendees: Lee Hefty (DERM); Susan Markley, Ph.D. (DERM); Craig Grossenbacher (DERM); Molly Messer (DERM); Matt Davis (DERM); Lisa Spadafina (DERM); Forrest Shaw (DERM); Nancy Revilla (DERM); Kevin Asher (MD Park & Recreation)

Other Attendees: A sign in sheet was provided for public sign in.

1. Welcome, Introductions, and Review of Agenda: A quorum was established. The meeting was called to order by Chair Manny Prieguez at 1:10 P.M. The meeting was recorded on video.

DERM provided transcripts of the two approved motions from the August 17, 2009 meeting which included (at the Committee's request) DERM staff interpretation of the Committee's intent. This document is included as an attachment to the minutes by reference hereto.

2. Review and Discussion of Committee Suggestions: The Chair opened the meeting with discussion related to the above mentioned document (see Attachment A) provided by DERM. He suggested that a motion be made to adopt language which was derived from DERM staff interpretation of the motions, unless there was an objection. A few committee members asked questions in clarification of the approved motions and language. Chair Prieguez clarified that if the language derived from DERM's interpretation of the approved motions was approved, then it would be the first recommended change to the Manatee Protection Plan that the committee would be making. In reference to the first of the two approved motions from the August 17, 2009 meeting and the DERM staff interpretation of that motion (see attachment), Ms. Green made a motion as follows:

FIRST MOTION

Motion Made by: Lynda Green

Motion Seconded by: Robert Moser

"I make a motion that we accept the language that DERM came up with for transfer of slips."

Final Amended Motion:

"I make a motion that we accept DERM staff's interpretation of language of transfer of slips...the first..."

DERM staff's interpretation of the committee's intent:

There shall be absolutely no transfer of slips of any kind from non-essential manatee habitat into any Essential Manatee Habitat. Essential Manatee Habitat is herein defined as that habitat which has been determined to be essential to manatees as described in the Miami-Dade Manatee Protection Plan approved by local, state and federal agencies.

After a brief discussion, the Chair called the question. The motion was **approved** by a vote of 9 to 3 as follows:

Brett Bibeau	Yes	Richard Bunnell	Yes
T. Spencer Crowley, III	No	Judith Futerfas	No
David Gardner	Yes	Lynda Green	Yes
Bob Karl	Absent	Alberto Lamadrid	No
Mark Lewis	Yes	Kate Mansfield, PhD	Yes
Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	Yes	Julia Zaias, PhD	Absent

Chair Prieguez then opened the discussion related to slip transfers from one basin to another. He stated that based on public comment at the end of the August 17, 2009 meeting and because the committee had been provided (at this meeting) with two proposals (see Attachment B) from the Ed Swakon, President of the Marine Council of Greater Miami, he would like to re-open the discussion about the concept of inter-basin transfer and the concept that perhaps it could be done with a net positive benefit to the manatee. In response to a concern raised by a committee member that the public was not able to make comments or suggestions until after votes were taken, Chair Prieguez then stated that it would be acceptable for the committee to ask questions of the public during discussion. A committee member asked a member of the public, Mr. Richard Perez, who had spoken at previous meetings, to identify the name of his client and where his client is interested in having slips transferred. Mr. Perez identified his client as the owner of The Gables Marina in the Coral Gables Waterway. He also stated that Mr. Swakon had been hired as well. Mr. Perez stated that they would only advocate for slip transfers in situations where there would be a positive or net benefit to the manatees, but not for something that would be a detriment to manatees. Dr. Markley discussed DERM's position and concerns related to the proposal provided to the committee by Mr. Swakon and clarified the use of covenants related to slip transfers, which was not included in Mr. Swakon's proposal. The discussion continued among the committee members related to transfers between canals/river systems.

Mr. Bibeau brought his motion (that was tabled from the August 17, 2009 meeting) up for discussion. The tabled motion included proposed language to slip transfers specifically on the Miami River. The document proposed language for the committee's approval. After describing the document (see language under the sixth motion), Chair Prieguez requested that Mr. Bibeau allow the committee to finish the discussion on transfers between basins before addressing Mr. Bibeau's request. Mr. Bibeau agreed and redirected the discussion to the second motion approved in the August 17, 2009 meeting related to transfers between water basins. He stated that he thought that the language that the committee requested DERM to provide under the title "DERM staff interpretation of the motion" was accurate. Dr. Markley provided clarification about exactly what the DERM staff interpretation of that motion is and what it means in terms of slip transfers. After her comments, the discussion continued by the committee members concerning the transfer of slips from one water body to another. Mr. Crowley then made the following motion:

SECOND MOTION

Original Motion Made by: T. Spencer Crowley, III

Motion Seconded by: David Gardner

"I would move that we as a committee...adopt the slip transfer process which would allow slip transfers between basins which contains an objective scoring system...that's contained on the handout that was distributed by the Marine Council and I would be okay if we passed this and want to go back and talk about these criteria a little bit more, but I think my motion would allow us to adopt this as a policy and then go back and discuss those criteria in the scoring system later. But that's my motion and we'll see if it gets seconded and if it passes."

Mr. Crowley further clarified, "...Let me be clear, this is page 3 and page 4 of the four page version, I believe...because...page 2 talks about transfer of slips within the same basin...I guess that we could adopt this as one sort of policy." "...it's page 3 and page 4 then that we're looking at and that we're voting on."

Some committee members and Dr. Markley expressed concern that portions of the proposal were being excluded in the motion. Dr. Markley based her concern on previous meetings with Mr. Swakon, who drafted the proposal, where he indicated that the general criteria on the first page had to be met prior to consideration for the scoring system.

After a brief break, the meeting resumed with the Chair asking Mr. Crowley if he wanted to amend his motion to include more detail. Mr. Crowley amended his motion as follows:

AMENDED SECOND MOTION

Amended motion made by: T. Spencer Crowley, III

Seconded by: Dick Bunnell

Amended Motion (made after the break):

“...the criteria on page 1 are general criteriareally; it would be consideration of page 1, page 3, and page 4 of this document. The only reason that page 2 would be eliminated, I guess, is because I don't think right now we're talking about transfer of slips within the same basin...Again, I just want to reiterate that this is a proposal to accept a slip transfer process between basins with an objective scoring criteria and that objective scoring criteria, we would discuss that, I think, if this motion passes.”

A discussion ensued about the 4 page document that Mr. Swakon submitted (Attachment B) which outlined a process of evaluating slip transfers using a scoring system. Some members expressed concern related to the scoring system proposed and that it may not encompass all of the variables that are factors related to net benefit to manatees.

In response to a request by a committee member to clarify the intent of his motion, Mr. Crowley clarified that his motion was to “...recommend a slip transfer process between basins with an objective scoring criteria, or objective scoring system. The exact details of the scoring system would be further deliberated and considered if this motion passed...I think that they [pages 3 & 4] would be a guide that you would use, but I would think that they would be general...I think that we all need to...look at number 1 on page 3...number 1 says that the general slip criteria shall be met in the evaluation criteria for within basin and/or waterway transfers shall be applicable. The way that I interpret that language...really, all of the criteria on page 1 would have to be met, the criteria on page 2 would have to be met, and then the criteria on pages 3 & 4 would have to be met for a slip transfer between basins to occur, the only distinction, when we say that we are eliminating page 2 from consideration...is really just to say that as part of this motion, we're not considering the transfer of slips within the same basin. So, if we approve this motion it would be my intent that we would have to satisfy these criteria on page 2 before a slip transfer between basins would be...acceptable and I think that's clear from the language of the proposal. I just wanted to make sure that everyone understands that sort of subtle distinction.”

Dr. Markley pointed out that there is fourth proposal that the committee has to consider from DERM that was distributed several months prior. She then pointed out several concerns that DERM has with Mr. Swakon's proposal. These included that DERM doesn't recommend transfer between basins; there are few assurances that a net benefit to manatees will occur; DERM does not think that it is appropriate to transfer of slips from an area of lower mortality to higher mortality regardless of points; the types of vessels and types of activities are not given sufficient consideration and that upstream transfers should not be allowed, particularly into a cold weather aggregation area or other type of sensitive habitat regardless of scoring. Dr. Markley also pointed out that the assignment of points is simply a mechanism of making something subjective into something objective.

At the request of the committee, Mr. Swakon answered questions from the committee members and DERM staff regarding both of his proposals. The committee discussed the issues until the Chair made final comments. For the purposes of clarity, the Chair requested that Mr. Crowley restate his motion, as amended, which would be the subject of the vote.

First Restatement of Amended Motion:

“For the committee to recommend consideration by the County Commission of a policy that would allow slip transfers between different basins and the determination of whether or not the

slips transfers between different basins would be made based on an objective scoring system. The policy that we're using essentially as an outline or a model would be the policy that's handed out to us...specifically page 1 as general criteria, page 2 as additional criteria and then pages 3 and 4 as additional criteria. The only distinction regarding page 2 that's relevant is that we're not voting on at this time on a policy to determine transfers of slips within the same basin. So, that policy on page 2 wouldn't be applicable to transfers of slips within the same basin, it would be applicable to transfers of slips... between different basins." ... "And then the intent is obviously there's been issues raised about the scoring and...what gets 1 point, what gets 2 points and whether or not there is a continuum or some kind of thing, but I think that if we, if the committee approves this concept of using an objective scoring system then we have to go back and look at this in detail. If the committee doesn't approve this concept then we would move to a slip transfer process between different basins that uses more subjective evaluation criteria and then if that fails we would vote on no transfer at all, I guess."

In order to ensure accurate documentation of the motion, DERM staff requested a restatement of the motion. Mr. Crowley restated the motion as follows:

Final Restated Amended Motion:

"The motion is for this committee to recommend to the County Commission a process which would allow slip transfers between basins using an objective scoring system as the basis for determining whether or not those slip transfers are of a net positive benefit to the manatees."

Seconded by: Dick Bunnell

The motion **failed** due to a tie vote with the votes being as follows:

Brett Bibeau	No	Richard Bunnell	Yes
T. Spencer Crowley, III	Yes	Judith Futerfas	No
David Gardner	Yes	Lynda Green	No
Bob Karl	Absent	Alberto Lamadrid	Yes
Mark Lewis	No	Kate Mansfield, PhD	No
Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	No	Julia Zaias, PhD	Absent

THIRD MOTION

Motion Made by: T. Spencer Crowley, III

Motion Seconded by: Dick Bunnell

"... for this committee to recommend to the County Commission that the County Commission adopt a process that would allow slip transfers between different basins using relatively subjective evaluation criteria...the distinction between this motion and the last motion is there is no scoring system. It leaves the discretion more in DERM's hands to make the determination...the process would result in a net benefit to manatees."

A discussion ensued among the committee members about the topic of slip transfers.

Restated motion Made by: T. Spencer Crowley, III

Seconded by: Dick Bunnell

"Move that we, that the committee, vote to recommend to the county commission to incorporate this process that I have here in front of me regarding slip transfers between basins. It sets forth 10 criteria for DERM to utilize in making the determination of whether a proposed slip transfer has a net benefit to manatees...the single page [Mr. Swakon's second proposal consisting of one page]."

General Criteria for between basins and/or waterways

Slip transfers proposed between basins and/or waterways may be considered if the donor/recipient can demonstrate that the transfer will have a net benefit to manatees. The determination of whether a proposed slip transfer has a net benefit to manatees shall be based on, but not limited to, an evaluation of the following criteria:

- (i) patterns of manatee mortality between donor and recipient sites,
- (ii) distance to open water or nearest boater destination between donor and recipient sites,
- (iii) relative position within the tributary of the donor and recipient sites,
- (iv) relative width of the waterway between donor/recipient site and open water,
- (v) the clearance between bottom of the vessel and the bottom of waterway (comparing the types of vessels associated with the donor site with the proposed vessels at the recipient with the same or greater clearance constituting a net positive),
- (vi) distances of boat/manatee use pattern overlap
- (vii) relative abundance of manatees (density, frequency of use, etc.),
- (viii) proximity to manatee feeding or aggregation areas,
- (ix) type of vessel and frequency of trips typical of facility
- (x) any net reduction in the number of slips being transferred from the donor to the recipient site.

No one factor shall be determinative of whether a transfer is a net positive to the manatees, but all factors shall be considered to determine if, in the aggregate, a transfer constitutes a net positive.

A few committee members requested clarification from Mr. Swakon about his proposal.

The motion **failed** by a vote of 7 to 5 with the votes being as follows:

Brett Bibeau	No	Richard Bunnell	Yes
T. Spencer Crowley, III	Yes	Judith Futerfas	No
David Gardner	Yes	Lynda Green	No
Bob Karl	Absent	Alberto Lamadrid	No

Mark Lewis	No	Kate Mansfield, PhD	No
Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	No	Julia Zaias, PhD	Absent

FOURTH MOTION

Motion Made by: Brett Bibeau

Motion Seconded by: Robert Moser

“I make a motion to extend [the meeting] if needed, until 6:00 PM if needed.”

The motion was **approved** by a vote of 10 to 2 with the votes being as follows:

Brett Bibeau	Yes	Richard Bunnell	Yes
T. Spencer Crowley, III	Yes	Judith Futerfas	Yes
David Gardner	No	Lynda Green	No
Bob Karl	Absent	Alberto Lamadrid	Yes
Mark Lewis	Yes	Kate Mansfield, PhD	Yes
Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	Yes	Julia Zaias, PhD	Absent

Mr. Lewis requested to make a motion related to a revised version of his previously distributed proposal.

A brief discussion occurred related to the concept of slip transfers in general and was followed by a motion made by Mr. Moser.

FIFTH MOTION

Motion Made by: Robert Moser

Motion Seconded by: David Gardner

“I move that slip transfers be considered as part of the manatee protection plan if they can demonstrate the transfer will have a net benefit to the manatees.”

A discussion ensued among the committee members and related to the motion and the criteria that DERM would use if the motion passed. Dr. Markley and Lee Hefty referred the committee back to the DERM recommendations that were passed out to the committee in a previous meeting.

Based on discussion by committee members and input from DERM staff, Mr. Moser amended his motion to state:

“Slip transfers should be considered with the criteria developed by DERM as part of the Manatee Protection Plan as it is proven that it demonstrates a net benefit to the manatee...”

However, when some committee members were unsure of whether the motion was for slip transfers anywhere or whether it was only for basin to basin transfers, Mr. Moser further amended his motion as follows:

AMENDMENT TO FIFTH MOTION

Amended motion made by: Robert Moser

Seconded by: Dick Bunnell

“In between basins, slip transfers should be considered with the criteria developed by DERM as part of the Manatee Protection Plan, so long as it can be demonstrated that the transfer will have a net benefit to the manatees...I actually would even add in there, assuming that it doesn’t make it fail, assuming it’s not the only reason that makes it fail...with the criteria, but not limited to the criteria developed by DERM.”

Dr. Markley explained that the concept of transfer between basins and the DERM criteria is mutually exclusive and that DERM would not support or recommend the transfer of slips from one basin to another.

Mr. Bibeau, who had previously deferred making his own motion to allow Mr. Moser to make his motion, requested that the current motion by Mr. Moser be tabled because it had become more complex than he initially thought. Mr. Moser declined the request to table his motion.

Mr. Crowley recommended that the amended motion be amended back to the original motion stating that slip transfers would be considered on a case by case basis. Based on Mr. Crowley’s recommendation, Mr. Moser restated the original motion, as follows:

SECOND AMENDMENT TO THE FIFTH MOTION

Final Amended Motion by: Robert Moser

Seconded by: Dick Bunnell

“Slip transfers should be considered as part of the Manatee Protection Plan provided they can demonstrate that the transfer will have a net benefit to the manatees.”

The motion was **approved** by a vote of 7 to 5 with the votes as follows:

Brett Bibeau	Yes	Richard Bunnell	Yes
T. Spencer Crowley, III	Yes	Judith Futerfas	No
David Gardner	Yes	Lynda Green	No
Bob Karl	Absent	Alberto Lamadrid	Yes
Mark Lewis	No	Kate Mansfield, PhD	No
Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	No	Julia Zaias, PhD	Absent

SIXTH MOTION

Motion Made by: Brett Bibeau

Motion Seconded by: Alberto Lamadrid

Earlier in the meeting, Mr. Bibeau made a motion to vote on his motion that had been tabled from the August 17, 2009 meeting "...the tabled motion which is DERM's verbatim version with a couple exceptions, most importantly not allowing transfers anywhere in the entire county with the exception of River to River...Miami River to Miami River...hopefully it will be even clearer in the actual document it's the language under number 1 starting on page 3...says insert following new paragraph into the MPP which is consistent with Resolution R-536-05 adopted by the Board of County Commissioners. It starts in quotes with 'g2' and that's from this document provided by DERM, starting on DERM's page 3, g2 '*Removal of Slips or Berths in Use at a Location and Transfer to Another*' where they are allowing transfers in multiple areas, I have deleted the multiple area component it's only Miami River to Miami River. The number 9 that was kind of just discussed in response to Mr. Lamadrid's question about only allowing the transfer, DERM's version says a donor slip should be eligible for transfer once. I've deleted that...why limit it to once, if you transfer it from 4 miles up the River to 2 miles up the River and then 2 years later they want to transfer it to 2 miles closer to the mouth of the River, that would be in many people's opinion going in the right direction. So why limit it to once if the next transfer is going to create a net benefit as well? And by the way the next transfer, the second transfer would also reduce your number of slips because you are not allowed to transfer all of them, you have to leave one behind." "...what the data has told us is that the slips on the River have been reducing and that was an unintended consequence of the current regulation. The current regulation thought that it was going to stay the same, but due to many other factors, the number of slips on the River has decreased, so what this is trying to do is have no net decrease of slips and have the River's recently \$89 million dredged Miami River's Federal Navigable channel have the number of slips that it has historically had instead of continuing to lose them at a scary rate." ... "And that is also consistent with what the Board of County Commissioners approved back in the resolution a few years back...so, it's really to address that existing condition...with no, with a net benefit to the manatee as previously discussed." ... "Although eliminating the transfer in different areas, it does allow the transfer in either direction on the Miami River, up river or down river, the whole River is only 5 miles, so we're not moving them that far. If you move them to the mouth of the River, you know, I don't really understand that and I'll explain why. The manatees go all the way to the end of the River anyway, so if you transfer them to the mouth, they still have to swim through the mouth to get up the River, so if you move a slip down river, they still have to swim through that area, and all the boats go out to the Bay, so what difference if they're half a mile from the River, from the mouth of the River or a mile from the mouth of the River, all those boats are going to the Bay...so to send it either way would be fine under my proposal...the other change is the type and frequency of use, which is DERM's version number 2 has been deleted. So those are the only changes from the DERM version to this version."

Restated Motion made by: Brett Bibeau

Seconded by:

Alberto Lamadrid

"I make my motion, it's been distributed, it's been discussed, it's in writing, it's the underlined text in quotes based on the factual data and analysis on pages 1 & 2, so moved Mr. Chair."

"g.(2) Removal of Slips or Berths in Use at a Location and Transfer to Another

Removal of dry or wet slips or berths in use at one or more locations along the Miami River may serve as a form of mitigation to compensate for the potential impacts to manatees from proposed new operations or expansion of marine facilities in the Miami River above the guidelines recommended for manatee protection. The transfer process requires a review and evaluation by DERM, in coordination with state and federal regulatory authorities, of the proposed transfer for potential adverse impacts to manatees as well as evaluation of other requirements of Chapter 24 of the Code of Miami-Dade County. To assure that the impacts from proposed new slips would not exceed the potential impacts from the slips that are to be removed for mitigation, this analysis must be site specific and be based on a consistent set of mitigation rules applied to all such projects. Furthermore, to assure that the impact of new powerboat slips remains fully mitigated, a suitable restriction running with the land (i.e. restrictive covenant) on the donor property is required to record that the historical use was transferred, and assure that the original slips would never be reoccupied by powerboats. This is similar to other forms of environmental mitigation, or conservation easements, intended to preserve the mitigation benefits in perpetuity. Transfer applications shall not be approved without concurrence of federal and state regulatory agencies with authority for manatee protection. This has implications for the owners or future owners of donor properties. These owners have an expectation that continuing use or reconstruction of historical motor boat slips will be found consistent with manatee protection guidelines. This would no longer be the case if the historical use had been transferred to another parcel. For these reasons, both from an assessment of the biological merits of the mitigation for a proposed project, and in fairness to owners whose slips are sought for transfer, slips cannot simply be "reallocated" to another property without participation and consent of the "donor".

The following mitigation criteria will be used to evaluate requests for slip transfer.

1. Slip transfers only have the ability to offset potential impacts if they represent an actual reduction in use of equivalent slips at the donor site, and the slips from the donor site may not be reoccupied.
2. To assure no net increase in impact to manatees, slips may only be transferred from one site to another along the 5.5 mile Miami River.
3. Only slips in compliance with all required environmental and land use approvals are eligible for transfer. For slips located in or over the water, documentation of approval of the submerged lands owner is required. Illegal or unauthorized docking is ineligible for transfer.
4. Transfers require the consent of the property owner(s) involved (donor and receiving properties) and restrictive covenants running with the land in favor of Miami-Dade County must be recorded on the donor and recipient sites.

5. In order to preserve riparian property rights and to prevent net reduction of waterfront access sites, not all existing slips can be transferred away from a given donor site. At least one existing power boat slip per 100 feet of shoreline shall be retained at the donor site and shall not be eligible for transfer.

6. Slips located in areas recommended for expansion of commercial marinas, dry storage, transitory docks, boatyards, ramps, or large vessel (>100') berthing under the MPP do not qualify as donor slips.

7. Slip transfers may be allowed only if all federal, state, and local approvals at the receiving site are obtained for the proposed work and operations required for transfer."

Dr. Markley stated that while there are many things in Mr. Bibeau's proposal that DERM agrees with, DERM doesn't agree with his data characterization and some of the things that he did not carry over from the DERM proposal that are critical to determining if impacts to manatees would occur. For example, his proposal allows unlimited upstream transfers, including into aggregation areas, which is a cause for concern. She further stated that Mr. Bibeau's proposal doesn't address the type of facility operation, number of boat trips it would generate and types of boats that would use it. Dr. Markley expressed that without those critical components it could not be demonstrated that there would be a net benefit to manatees. Therefore, DERM would not be able to support it as proposed.

The motion was **approved** by a vote of 7 to 5 as follows:

Brett Bibeau	Yes	Richard Bunnell	Yes
T. Spencer Crowley, III	Yes	Judith Futerfas	No
David Gardner	Yes	Lynda Green	No
Bob Karl	Absent	Alberto Lamadrid	Yes
Mark Lewis	No	Kate Mansfield, PhD	No
Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	No	Julia Zaias, PhD	Absent

3. Public Comment: There was no public comment at the meeting.

4. Review of Future Schedule: Proposed dates for future meetings are as follows:

September 9, 2009
September 23, 2009
September 30, 2009 (added at this meeting)
October 2, 2009
October 9, 2009

A committee member asked if the next topic of discussion should be defining which slips can be transferred. The Chair stated that it seemed to be the next logical step and that it would be the topic of discussion at the next meeting.

5. Adjourn: The meeting was adjourned at 4:55 PM.

Attachment A: Approved Motions from August 17th 2009 Meeting
Attachment B: Submittal by Ed Swakon: "Proposed Slip Transfer Procedures"

APPROVED MOTIONS FROM AUGUST 17, 2009 MPPRC MEETING

MOTION 1

Motion Made by: Dr. Julia Zaias

Seconded by: Lynda Green

"That there is absolutely no transfer of any slips of any kind from non-essential manatee habitat into any essential manatee habitat; at the most recent update of what those maps would be I guess, into the 2009 version of that essential habitat, you know, assuming that it is similar, but it will look sort of like this."

DERM staff's interpretation of the committee's intent:

There shall be absolutely no transfer of slips of any kind from non-essential manatee habitat into any Essential Manatee Habitat. Essential Manatee Habitat is herein defined as that habitat which has been determined to be essential to manatees as described in the Miami-Dade Manatee Protection Plan approved by local, state and federal agencies.

MOTION 2

Motion made by: Mark Lewis

Motion seconded by: Alberto Lamadrid

"...that staff prepare text for final consideration at the next meeting that says, in appropriate terminology, that slip transfers from one water basin to another water basin will not be permitted as part of this Manatee Protection Plan...within Essential Manatee Habitat"

Mark Lewis clarified in response to a question about the definition of "water basin" by Julia Zaias. "In my mind, water basin is everything from where it enters the bay until it dries up, upstream."

DERM staff's interpretation of the committee's intent:

Within Essential Manatee Habitat, there shall be no transfer of slips from one canal or river system to another geographically distinct or discontinuous canal or river system. For example, transfer of slips from the Coral Gables Waterway system into the Miami River system would not be allowed.

* PROPOSAL SUBMITTED TO COMMITTEE BY ED SWAKON @
AUGUST 24, 2009 MTG (SUBJECT OF ~~MOTION~~ SECOND MOTION)

Proposed Slip Transfer Procedures

August 21, 2009

General Criteria for all slip transfers

1. Any slip transfer (measured in the aggregate for all slips proposed to be transferred from one location to another location) shall provide a net positive benefit to the manatee (as measured by the criteria set forth in pages 2 and 3).
2. In order to preserve riparian property rights and to prevent net reduction of waterfront access sites, not all existing slips can be transferred away from a given donor site. At least one existing power boat slip per 100 feet of shoreline shall be retained at the donor site and shall not be eligible for transfer.
3. Slips located in areas recommended for expansion of commercial marinas, dry storage, transitory docks, boatyards, ramps, or large vessel (>100') berthing under the MPP (the "Recommended Area") do not qualify as donor slips locations.
4. Donor and recipient sites must execute covenant running with the land memorializing the transfer.
5. No transfer of slips from a donor site to a recipient site that would result in an increase of 1.0 mile or more in the travel distance to open water.
6. Dry or wet slip should be considered for transfer equally.

Transfer of slips within the same basin and/or waterway

When slip transfers are proposed within the same basins and/or waterway the following criteria (measured in the aggregate for all slips proposed to be transferred from one location to another location) shall be evaluated and determined to result in a net benefit to the manatee.

- 1) The general slip transfer criteria shall be met.
- 2) Net change in number of slips before and after transfer.
 - a) Net reduction in number of slips (+1 point per slip)
- 3) Manatee population at both donor and recipient sites. Relative manatee populations (as set forth in the relative manatee densities chart (DERM, 2009), as may be amended)) shall be used.
 - a) Any move from higher density to lower density shall equal +1 point for each category reduction (i.e. if moving from high density to moderate density, +2 points).
 - b) Any move from lower density to higher density shall equal -1 point for each category of increase (i.e. if moving from moderate density to high density, -2 points); provided that slips may not be transferred to a donor site in an area with a relative density more than 2 categories more intense (i.e. no move from low density to high density).
 - c) Move from areas with similar density — neutral — 0 points
- 4) Within cold weather aggregation areas such as the Miami River, Little River, Coral Gables Waterway etc, slips to be transferred must be located further from (or equidistant to) Biscayne Bay than the proposed recipient site in order to qualify as donor slips in order to prevent increased potential of manatee/vessel travel pattern overlap.

Slip transfers between basins and/or waterways

When slip transfers are proposed between basins and/or waterways the following additional criteria (measured in the aggregate for all slips proposed to be transferred from one location to another location) shall be evaluated and determined to result in a net benefit to the manatee.

- 1) The general slip transfer criteria shall be met and the evaluation criteria for *within basin and/or waterway* transfers shall be applicable.
- 2) Patterns in manatee mortality (as set forth in _____)
 - a) A move from higher mortality area to lower mortality area shall equal +1 point
 - b) A move from lower mortality area to higher mortality area shall equal -1 point
 - c) Moves from areas with similar mortality area — neutral — 0 points
- 3) Distance to open water or to boater destinations
 - a) Moves that result in shorter travel distance to the nearest boater destination or open water shall equal:
 - i) < 0.5 miles — no points
 - ii) >0.5 miles - 1. 0 miles +1 point
 - iii) > 1.0 mile +2 points
 - b) Moves that result in longer travel distance to the nearest boater destinations or open water shall equal -1point
 - c) Moves that result in similar travel distance to the nearest boater destinations or open water shall be considered neutral and equal 0 point
- 4) Relative position within the tributary of the donor and recipient sites.
 - a) A move from up-tributary to down-tributary shall equal:
 - i) < 0.5 miles — no points
 - ii) >0.5 miles - 1. 0 miles +1 point
 - iii) > 1.0 mile +2 points
 - b) Move from down-tributary to up-tributary shall equal -1 (with no up-tributary moves that would result in travel distance to open water increasing by 1.0 mile or more).
- 5) Type of vessels at both donor and recipient site.
 - a) The clearance between bottom of the vessel and bottom of waterway (comparing the types of vessels associated with the donor site with the proposed vessels at the recipient with the same or greater clearance constituting a +1 and with less clearance -1); and
 - b) The recipient site shall have adequate water depth for the type of vessel proposed for the donor site without the need for additional dredging.

- 6) Type of facility at both donor and recipient site
 - a) The frequency of operation (i.e. number of vessel trips per day expected from the donor slips) shall be greater than or equal to the frequency of operation expected at the recipient site for the type of slips proposed for such recipient site (taking into consideration any potential net reduction in slips between donor and recipient sites).
- 7) The above criteria 5 and 6 are considered to be met if the recipient site has an existing marine facility operating permit allowing a marina/boat facility.

* PROPOSAL SUBMITTED TO COMMITTEE BY ED SWAKON @
AUGUST 24, 2009 MTG (SUBJECT OF THIRD MOTION)

Proposed Slip Transfer Procedures

August 21, 2009

General Criteria for between basins and/or waterways

Slip transfers proposed between basins and/or waterways may be considered if the donor/recipient can demonstrate that the transfer will have a net benefit to manatees. The determination of whether a proposed slip transfer has a net benefit to manatees shall be based on, but not limited to, an evaluation of the following criteria:

- (i) patterns of manatee mortality between donor and recipient sites,
- (ii) distance to open water or nearest boater destination between donor and recipient sites,
- (iii) relative position within the tributary of the donor and recipient sites,
- (iv) relative width of the waterway between donor/recipient site and open water,
- (v) the clearance between bottom of the vessel and the bottom of waterway (comparing the types of vessels associated with the donor site with the proposed vessels at the recipient with the same or greater clearance constituting a net positive),
- (vi) distances of boat/manatee use pattern overlap
- (vii) relative abundance of manatees (density, frequency of use, etc.),
- (viii) proximity to manatee feeding or aggregation areas,
- (ix) type of vessel and frequency of trips typical of facility
- (x) any net reduction in the number of slips being transferred from the donor to the recipient site.

No one factor shall be determinative of whether a transfer is a net positive to the manatees, but all factors shall be considered to determine if, in the aggregate, a transfer constitutes a net positive.